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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,237	03/08/2001	Christopher Keith	IVEN125472	7700
52531	7590	04/21/2006	EXAMINER	
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC			GRAHAM, CLEMENT B	
1420 FIFTH AVENUE			ART UNIT	
SUITE 2800			PAPER NUMBER	
SEATTLE, WA 98101-2347			3628	

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/802,237	<b>Applicant(s)</b> KEITH, CHRISTOPHER	
	<b>Examiner</b> Clement B. Graham	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/17/05 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nieboer et al (Hereinafter Nieboer US Patent No 6, 418, 419) in view of Nelson US Patent No 4, 823, 265).

As per claims 1-2, Nieboer discloses a method of facilitating trading, comprising: automatically via a computer sending a trial order ("i. e, conditional order ") to a market.(see column 2 lines 5-67) and automatically via a computer receiving a report ("i. e, displaying information on each order") indicating that the trial order would have been paired if it had been a regular order. (Note abstract see column 4 lines 13-21 and column 3 lines 59-67 and column 4 lines 1-30).

Nieboer fail to explicitly teach wherein a trial order is for discovery of current market depth at a price and is not an order to buy or sell.

However Nelson discloses the current market price of the underlying security is listed on the display. Offer prices are listed according to strike prices which may (as shown) be described in set increments, or may be equal to or related to the current market price of the security. Bid (buyer offer) and asked (written offer) prices are also listed for each strike price. Alternatively, a single price representing the current market price of the renewable option at each strike price may be listed. As a third alternative,

the price of each renewable option may also be set by the listing agent or the writing agent for the listing agent if the market is generated internally by the listing agent rather than through a multi-access exchange. Prices may even be set by standardized formulas. Prices may obviously be affected by a variety of factors, but writers may well choose to list the price of the renewable options as a fixed percent of the strike/market price on the basis of prevailing interest rates and stock dividends yields, for example. (see column 6 lines 3-21 and column 8 lines 53-60 and column 9 lines 18-28).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Nieboer to include wherein a trial order is for discovery of current market depth at a price and is not an order to buy or sell taught by Nelson in order to investments transactions.

As per claim 3, Nieboer discloses, wherein the automatically sending and receiving are performed by a trading process. (see column 3 lines 59-67 and column 4 lines 1-30).

As per claims 4, 8, 10-11, Nieboer discloses a method of facilitating trading, comprising: automatically via a computer receiving a trial order, automatically via a computer entering the trial order into an order file. ("i. e, conditional order "see column 2 lines 5-67") and automatically reporting ("i. e, displaying information on each order") when the trial order would have been paired had it been a regular order. (Note abstract see column 4 lines 13-21 and column 3 lines 59-67 and column 4 lines 1-30).

Nieboer fail to explicitly teach wherein a trial order is for discovery of current market depth at a price and is not an order to buy or sell.

However Nelson discloses the current market price of the underlying security is listed on the display. Offer prices are listed according to strike prices which may (as shown) be described in set increments, or may be equal to or related to the current market price of the security. Bid (buyer offer) and asked (written offer) prices are also listed for each strike price. Alternatively, a single price representing the current market price of the renewable option at each strike price may be listed. As a third alternative, the price of each renewable option may also be set by the listing agent or the writing agent for the listing agent if the market is generated internally by the listing agent rather than through a multi-access exchange. Prices may even be set by standardized formulas. Prices may

Art Unit: 3628

obviously be affected by a variety of factors, but writers may well choose to list the price of the renewable options as a fixed percent of the strike/market price on the basis of prevailing interest rates and stock dividends yields, for example. (see column 6 lines 3-21 and column 8 lines 53-60 and column 9 lines 18-28).  
(see column 2 lines 5-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Nieboer to include wherein a trial order is for discovery of current market depth at a price and is not an order to buy or sell taught by Nelson in order to investments transactions.

As per claim 5, Nieboer discloses, further comprising selecting the trial order for pairing with an active side order without affecting the pairing priority of other orders in the order file. (see column 4 lines 1-30).

As per claim 6, Nieboer discloses, wherein the automatically reporting includes sending a pairing report for zero shares to a source of the trial order. (see column 4 lines 1-30 and note abstract see column 4 lines 13-21 and column 3 lines 59-67 and column 4 lines 1-30).

As per claim 7, Nieboer discloses, wherein the pairing report includes the price at which the trial order would have been paired had it been a regular order. (see column 1 lines 35-40 and note abstract see column 4 lines 13-21 and column 3 lines 59-67 and column 4 lines 1-30).

As per claim 9, Nieboer discloses automatically removing the trial order from the order file after reporting when it would have been paired. (see column 1 lines 35-40 and note abstract see column 4 lines 13-21 and column 3 lines 59-67 and column 4 lines 1-30).

### **Conclusion**

#### **Response to arguments**

4. Applicant's arguments filed on 1/27/2005 has been considered but they are moot in view of new grounds of rejections.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

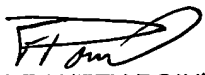
Art Unit: 3628

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantzy Ponvil can be reached on 703-305-9779. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

March 28, 2006

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
Au 3628